

# DIRECTIVE

## WORKFORCE INVESTMENT ACT

Number: WIAD02-4

Date: September 18, 2002  
69:50:va:6102

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: LWIA NONPERFORMANCE POLICY

### EXECUTIVE SUMMARY:

#### Purpose:

The purpose of this directive is to communicate State of California policy and procedures regarding Local Workforce Investment Areas (LWIA) that do not meet the minimum standard on one or more of the required locally negotiated performance measures. The policy and procedures apply to performance during Program Year 2001. In addition, this directive is applicable to future program years unless it is superseded by another directive or is rescinded.

#### Scope:

This directive applies to LWIAs that do not meet the minimum standard on one or more of the required locally negotiated performance measures.

#### Effective Date:

This directive is effective on the date of its issuance.

### REFERENCES:

- Workforce Investment Act (WIA) Section 136
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 8-99 (March 3, 2000)
- WIA Directive WIAD01-11, Subject: Exemplary Performance Incentive Award (March 11, 2002)

### STATE-IMPOSED REQUIREMENTS:

This directive contains State-imposed requirements, which are indicated in ***bold, italic type***.

## **FILING INSTRUCTIONS:**

This directive finalizes Draft Directive WIADD-39, issued for comment on August 20, 2002. Retain this directive until further notice.

## **BACKGROUND:**

The [WIA Section 136](#) contains the requirements of the performance accountability system to assess the effectiveness of states and local areas in achieving continuous improvement of activities under Title I of WIA. Subsection 136(g) informs states that failure to meet state-adjusted performance levels in any year may result in the provision of technical assistance by DOL, and that sanctions will be applied for failure to meet performance in two consecutive years. Subsection 136(h) specifies the provision of technical assistance, the imposition of corrective actions, and general sanctions that the state may require of local areas not meeting performance.

The [DOL TEGL 8-99](#) explains failure to perform as it relates to the federal incentive and sanctions process that applies to states. The TEGL states:

“It is understood that as part of a continuous improvement strategy, states may wish to emphasize improvement on a particular measure (e.g., entered employment) which may have a slightly adverse effect on other measures in the same program area. To allow for these strategies, and to avoid considerations of sanctions for only missing their negotiated goal by a few percentage points, states will not trigger the [federal] sanctions process as long as they have achieved 80% of their negotiated performance levels for each measure.”

A Local Area Work Group (Work Group) met in Sacramento on February 21, 2002, to help the California Workforce Investment Board (State Board) staff determine appropriate policy and procedural recommendations regarding local area nonperformance. The Work Group included members of the State Board, local area boards, local area administrators, and a representative from the California Workforce Association. It was the sense of the Work Group that:

- It would be reasonable for California to apply the same “80 percent trigger” to the local areas that is applied to the states by DOL;
- Should the State Board adopt this recommendation, the State Board staff will work with the Employment Development Department (EDD) to prepare a policy directive that communicates the State Board policy and which establishes specific procedures and guidelines for the provision of technical assistance and for sanctions; and
- The State should ensure that nonperforming local areas will not receive more funding for technical assistance than they would have been eligible to receive in incentive awards had they met or exceeded performance under the Exemplary Performance Incentive Award policy (see [WIA Directive WIAD01-11](#)).

## POLICY AND PROCEDURES:

### Policy:

On May 30, 2002, the State Board adopted the following policy regarding local area nonperformance:

***The LWIAs are expected to achieve at least 80 percent performance in each of their 17 negotiated performance measures. The LWIAs performing below 80 percent in one or more of the 17 measures will be offered necessary technical assistance the first year. Nonperformance in one or more of the same performance measures in two consecutive years will result in the Governor imposing sanctions as provided for under WIA Section 136(h)(2)(A).***

### Procedures:

***Based on the performance outcomes reported to DOL in the State's WIA Annual Report, EDD's Workforce Investment Division (WID) will make the determinations of the achievement or nonachievement of a minimum of 80 percent on each of the performance measures negotiated with each local area. The Participant and Employer Customer Satisfaction measures were not locally negotiated and LWIAs will not be evaluated on these two measures for PY 2001-02. Data will be calculated regarding the remaining 15 measures during December following the close of the most recent performance year. Performance will be assessed regarding those measures for which there is at least one exiter.***

As defined by DOL for the purposes of the Annual Report, the measurement period for the Exemplary Performance incentive awards (see [WIA Directive WIAD01-11](#)), **and on which nonperformance will be determined**, is the following:

For the 13 performance measures evaluated with data from the Unemployment Insurance wage record file, the 12-month measurement period begins October 1, prior to the beginning of the program year and ending the following September 30. For example, the measurement of the 13 performance measures is derived from the wage record file for participants who exit the program from October 1, 2000, through September 30, 2001. This is the reporting period for the Program Year 2001-2002 Exemplary Performance incentive award.

This measurement period applies to the following measures:

- Adult and Older Youth: entered employment rate, employment retention rate, wage gain, and the employment and credential rate; and
- Dislocated Worker: entered employment rate, employment retention rate, wage gain, and the employment and credential rate; and
- Younger Youth: retention rate.

The Younger Youth skill attainment and diploma rates will be based on data for the period of July 1, 2001 through June 30, 2002.

A summary report of the nonperformance regarding each applicable LWIA will be provided by WID to the State Board. Applicable LWIAs will be notified in writing by December 31, 2002, regarding nonachievement of the minimum standards required by the State's policy.

If a LWIA is not performing at a minimum of 80 percent in one or more of the measures, WID staff will work with LWIA staff to identify the LWIA's needs relative to improving performance. ***The LWIAs not meeting the minimum standard in one or more of the required measures must complete and submit the attached Corrective Action and Technical Assistance Plan. The plan must be signed by both the Chief Elected Official and the Local Workforce Investment Board Chairperson, or by their officially designated alternates. The plan is due at the State no later than 60 days after the date of the letter of notification that the LWIA has failed performance. See the subsection "ACTION" for submittal instructions.***

If a need for technical assistance is identified, it may be provided from a variety of sources including local, State, federal and nongovernmental. This may include funding from the State for technical assistance not otherwise available. Funding for technical assistance from the State is contingent upon the availability of funds. ***The LWIA will not receive more funding for technical assistance than it would have been eligible to receive in incentive awards, or that it received as a partial incentive award, under the Exemplary Performance Incentive Award policy described in [WIA Directive WIAD01-11](#).***

The LWIA will be notified regarding the acceptance or nonacceptance of the Corrective Action and Technical Assistance Plan within 30 days of its receipt by the State. If the LWIA has applied for and been granted State technical assistance funds as part of the plan, this information will be included in the notification and the funding will be provided in a subgrant agreement or by modification to the existing master subgrant.

If a LWIA does not achieve at least 80 percent in the same measure(s) for a second consecutive year, the Governor will take corrective action as required in WIA Section 136(h)(2)(A).

#### **ACTION:**

Please bring this directive to the attention of all relevant parties.

***If the LWIA has received notification of failure to achieve at least 80 percent in one or more of the required performance measures, the attached Corrective***

***Action and Technical Assistance Plan must be completed and submitted no later than 60 days after the date of the notification to:***

Mail: Program Section  
Workforce Investment Division, MIC 69-1  
Employment Development Department  
P. O. Box 826880  
Sacramento, CA 94280-0001

Overnight Mail: Program Section  
Workforce Investment Division, MIC 69-1  
Employment Development Department  
800 Capitol Mall  
Sacramento, CA 95814

Hand Deliver: Program Section  
Workforce Investment Division, MIC 69-1  
Employment Development Department  
750 N Street  
Sacramento, CA 95814

**INQUIRIES:**

If you have any questions concerning this directive, contact your assigned [Regional Advisor](#).

/S/ BILL BURKE  
Chief  
Workforce Investment Division

Attachment is available on the Internet:

[LWIA Corrective Action and Technical Assistance Plan](#) (DOC)